

THE HONORABLE RICHARD A. JONES

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

JILL ALEXANDER, an individual,

Plaintiff,

v.

THE BOEING COMPANY, a corporation
doing business in the State of Washington,

Defendant.

No. 2:13-cv-1369-RAJ

BOEING'S MOTION FOR COSTS

NOTED FOR MOTIONS CALENDAR:
October 3, 2014

BOEING'S MOTION FOR COSTS
(No. 2:13-cv-1369-RAJ)

03002-1688/LEGAL123443895.1

Perkins Coie LLP
1201 Third Avenue, Suite 4900
Seattle, WA 98101-3099
Phone: 206.359.8000
Fax: 206.359.9000

TABLE OF CONTENTS

I.	INTRODUCTION	1
II.	ARGUMENT	1
A.	As the Prevailing Party, Boeing Is Entitled to Recover Costs	1
B.	Boeing Is Entitled to Recover All Requested Costs	1
1.	Deposition costs	2
2.	Copying costs	2
3.	Filing fee	3
III.	CONCLUSION.....	3

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19

I. INTRODUCTION

Defendant The Boeing Company respectfully submits this motion to recover costs from Plaintiff Jill Alexander pursuant to Rule 54(d) of Federal Rule of Civil Procedure (“Rule 54(d)”) and Local Civil Rule 54(d) of the Local Rules of the Western District of Washington (“LCR 54(d)”) for deposition expenses, copying costs, and filing fees. As the prevailing party in this action, Boeing is entitled to and respectfully requests an award of costs in the amount of \$2,233.80. The specific costs that Boeing seeks to recover are enumerated in the accompanying Bill of Costs and Declaration of Arunas Bura, filed herewith.

II. ARGUMENT

20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41

A. As the Prevailing Party, Boeing Is Entitled to Recover Costs.

A “prevailing party” in civil litigation is entitled to costs other than attorneys’ fees as a matter of course, unless the court directs otherwise. *See* Fed. R. Civ. P. 54(d)(1); *Delta Air Lines v. August*, 450 U.S. 346, 351 (1981). Ms. Alexander filed this action against Boeing alleging claims of disability discrimination and violations of the Family and Medical Leave Act (“FMLA”). This rule “creates a presumption in favor of awarding costs to a prevailing party.” *Escriba v. Foster Poultry Farms, Inc.*, 743 F.3d 1236, 1247 (9th Cir. 2014). On August 27, 2014, the Court issued an Order entering judgment in favor of Boeing on all Ms. Alexander’s claims. Dkt. #91. Accordingly, Boeing is the prevailing party, and an award of costs is warranted. *See* Fed. R. Civ. P. 54(d); LCR 54(d)(1); *San Diego Police Officers’ Ass’n v. San Diego City Employees’ Ret. Sys.*, 568 F.3d 725, 741 (9th Cir. 2009).

42
43
44
45
46
47
48
49
50
51

B. Boeing Is Entitled to Recover All Requested Costs.

Under LCR 54(d)(3)(D), “costs shall be taxed in accordance with 28 U.S.C. § 1920,” which allows costs for, inter alia, “Fees of the clerk,” 28 U.S.C. § 1920(1), “Fees for printed or electronically recorded transcripts necessarily obtained for use in the case,” *id.* § 1920(2), and “Fees for exemplification and the costs of making copies of any materials where the copies are

1 necessarily obtained for use in the case,” *id.* § 1920(4). The party opposing the award of costs
2 bears the burden of demonstrating why costs should not be awarded. *Save Our Valley v. Sound*
3 *Transit*, 335 F.3d 932, 945 (9th Cir. 2003). Boeing is entitled to recover its costs enumerated
4 below.
5
6

7
8
9 **1. Deposition costs**

10 Boeing seeks to recover expenditures for the deposition of Ms. Alexander. Boeing used
11 this deposition transcript at trial to obtain a complete defense verdict against Ms. Alexander.
12 *Morrissey v. Cnty. Tower Corp.*, 568 F. Supp. 980, 982 (E.D. Mo. 1983) (taxable fees include the
13 fee for the court reporter’s presence, the notary’s fee, and the court reporter’s fee for providing
14 the transcript). The total cost for this deposition transcript was \$1,474.10. Declaration of
15 Arunas Bura (“Bura Decl.”) ¶ 2.
16
17

18 Boeing’s deposition costs are recoverable. A prevailing party may recover the costs of
19 obtaining deposition transcripts where they were “necessarily obtained for use in the case.”
20 28 U.S.C. § 1920(2); *see also Evanow v. M/V Neptune*, 163 F.3d 1108, 1118 (9th Cir. 1998)
21 (“Deposition costs are taxable if they are reasonably necessary for trial.”); *Politte v. United*
22 *States*, No. 07CV1950 AJB WVG, 2012 WL 4845566, at *3 (S.D. Cal. Oct. 10, 2012) (“[T]he
23 question is whether the deposition costs Plaintiffs oppose were necessarily obtained for use in the
24 case; specifically whether the depositions, at the time they were taken, could reasonably have
25 been expected to be used for trial preparation.”). A deposition transcript is “necessarily
26 obtained” where it is actually used at trial for impeachment. *See Indep. Iron Works, Inc. v. U.S.*
27 *Steel Corp.*, 322 F.2d 656, 679 (9th Cir. 1963). Boeing used Ms. Alexander’s deposition
28 transcript at trial to impeach Ms. Alexander’s testimony. Boeing is therefore entitled to recover
29 the costs of \$1,474.10 associated with this necessary deposition of the Plaintiff.
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46

47 **2. Copying costs**

48 Boeing incurred costs in the amount of \$359.70 for copies of exhibits prepared for trial.
49 Bura Decl. ¶ 3. These costs are recoverable under 28 U.S.C. § 1920(4), which provides for
50
51

1 taxation of “[f]ees for exemplification and the costs of making copies of any materials where the
2 copies are necessarily obtained for use in the case.” To be taxable, such documents need not
3 have been used in the case or admitted into evidence. *See Haagen-Dazs Co. v. Double Rainbow*
4 *Gourmet Ice Creams, Inc.*, 920 F.2d 587, 588 (9th Cir. 1990); *Neely v. General Elec. Co.*, 90
5 F.R.D. 627, 630 (N.D. Ga. 1981). Accordingly, Boeing is entitled to cover copying costs in the
6 amount of \$359.70.
7

12 3. Filing fee

13 Finally, Boeing is entitled to recover its costs associated with the removal of this case to
14 federal court. *See* Dkt. #1. A prevailing party may recover the “[f]ees of the clerk.”
15 29 U.S.C. § 1920(1). Such fees include removal fees. *See, e.g., Gordon v. Prudential Fin. Inc.*,
16 No. 06CV02304-IEG(WMC), 2009 WL 188886, at *4 (S.D. Cal. Jan. 23, 2009) (“the costs of
17 removing a case from state to federal court are ‘taxable costs’ under § 1920”) (collecting cases);
18 *see also* LCR 54(d)(1) (“The fees referred to in this section refer to filing fees . . .”). Boeing
19 paid a filing fee of \$400.00 to remove this case to federal court. Bura Decl. ¶ 4. This removal
20 fee is recoverable under § 1920 and LCR 54(d).
21

30 III. CONCLUSION

31 For the foregoing reasons, Boeing respectfully requests an award of costs in the amount
32 of \$2,233.80.
33

34 DATED: September 10, 2014

35 By: s/ James Sanders

36 By: s/ Zachary P. Jones

37 James Sanders #24565

38 Zachary P. Jones #44557

39 **Perkins Coie LLP**

40 1201 Third Avenue, Suite 4900

41 Seattle, WA 98101-3099

42 Telephone: 206.359.8000

43 Facsimile: 206.359.9000

44 Email: JSanders@perkinscoie.com

45 ZJones@perkinscoie.com

46 Attorneys for Defendant The Boeing Company
47

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51

CERTIFICATE OF SERVICE

On the date indicated below, I caused to be served upon counsel of record, at the address stated below, via the method of service indicated, a true and correct copy of the following document:

BOEING'S MOTION FOR COSTS

Reba Weiss, WSBA #12876	_____	Via Hand Delivery
Andrea Scheele, WSBA #36773	_____	Via U.S. Mail, 1st Class, Postage
Sara B. Amies, WSBA #36626		Prepaid
Teller & Associates	_____	Via Overnight Delivery
1139 34th Avenue, Suite B	_____	Via Email
Seattle, WA 98122		
Reba@stellerlaw.com	<u> X </u>	Via E-filing
AndreaS@stellerlaw.com		
Sara@stellerlaw.com		
Tel. (206) 324-8969		
Fax (206) 860-3172		

Attorneys for Plaintiff

I certify under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

DATED at Seattle, Washington, this 10th day of September, 2014.

s/ Julie DeShaw

Julie DeShaw
Legal Secretary